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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,761	04/02/2002	Gregor John McLennan Anderson	PG4029USw	2889

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EXAMINER

GLASS, RUSSELL S

ART UNIT PAPER NUMBER

3626

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/089,761	Applicant(s) ANDERSON ET AL.	
	Examiner Russell S. Glass	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/1/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The claims are replete with misspellings of the root word "authorize".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Bayne, (U.S. 2005/0060198).**

3. As per claim 1, Bayne discloses a system for the remote assessment of a patient's medical condition comprising

a network computer system having specifiable network addresses, (Bayne, ¶ 76);

remote from said network computer system, a patient electronic data collection system for locally collecting data relevant to the patient's medical condition, (Bayne, ¶ 89);

a communicator for wirelessly communicating with an endpoint to said network computer system to enable transfer of said data to the network computer system, wherein the data includes a patient identifier, (Bayne, ¶ 69); and

a secure access gateway permitting access to the data on the network computer system in response to a user authorization command, (Bayne, ¶ 76).

4. As per claim 2, Bayne discloses a system wherein said patient electronic data collection system forms part of a patient monitoring system which collects data relevant to the patient's medical condition on a regular basis, (Bayne, ¶ 28, 78).

5. As per claim 3, Bayne discloses a system wherein the patient electronic data collection system forms part of a patient monitoring system which collects data relevant to the patient's medical condition on a continuous basis, (Bayne, ¶ 28, 78).

6. As per claim 4, Bayne discloses a system wherein said patient monitoring system forms part of a compliance monitoring system arranged to monitor patient compliance with a particular treatment regime, (Bayne, ¶ 28).

7. As per claim 5, Bayne discloses a system wherein the patient electronic data collection system forms part of a medicament delivery system, and is arranged to collect data when the patient uses the medicament delivery system, (Bayne, ¶ 28, 38).

8. As per claim 6, Bayne discloses a system wherein the medicament delivery system provides respirable delivery of medicament to the patient, (Bayne, ¶ 28).

9. As per claim 7, Bayne discloses a system wherein the medicament delivery system provides injectable delivery of medicament to the patient, (Bayne, ¶ 38).

10. As per claim 8, Bayne discloses a system, wherein the medicament delivery system is an implant in the body of the patient, (Bayne, ¶ 38).

11. As per claim 9, Bayne discloses a system wherein the data is communicable between the patient electronic data collection system and the network computer system in encrypted form, (Bayne, ¶ 45).

12. As per claim 10, Bayne discloses a system wherein the data is continuously communicable between the patient electronic data collection system and the network computer system, (Bayne, ¶ 78).

13. As per claim 11, Bayne discloses a system wherein the data is communicable in packet form between the patient electronic data collection system and the network computer system, (Bayne, ¶ 28).

14. As per claim 12, Bayne discloses a system wherein the secure access gateway is password protected, (Bayne, ¶ 70).

15. As per claim 13, Bayne discloses a system wherein the secure access gateway enables different levels of access authorization to the data to be assigned to different authorized users, (Bayne, ¶ 67, 76).

16. As per claim 14, Bayne discloses a system wherein the authorized users are selected from the group consisting of the patient, a healthcare professional, a pharmacist, an emergency assistance provider, a research professional, a database manager and any combinations thereof, (Bayne, ¶ 66).

17. As per claim 15, Bayne discloses a system wherein information from a patient-remote datasource is made available to the network computer system, (Bayne, ¶ 69).

18. As per claim 16, Bayne discloses a system wherein the patient-remote datasource comprises data relating to ambient environmental conditions, (Bayne, ¶ 70, 71)(disclosing information related to a life-threatening situation that is considered to include data relating to ambient environmental conditions).

19. As per claim 17, Bayne discloses a system wherein the patient-remote datasource comprises a database of prescribable medicaments, (Bayne, ¶ 96).

20. As per claim 18, Bayne discloses a system wherein the patient electronic data collection system further comprises a patient electronic data management system comprising a memory for storage of data, (Bayne, Claim 26);

a microprocessor for performing operations on said data, (Bayne, Claim 26); and

a transmitter for transmitting a signal relating to the data or the outcome of an operation on the data, (Bayne, Claim 26).

21. As per claim 19, Bayne discloses a system wherein said patient electronic data management system additionally comprises a geographic positioning system, (Bayne, ¶ 40).

22. As per claim 20, Bayne discloses a system wherein the communicator enables two-way transfer of data between the network computer system and the patient electronic data management system, (Bayne, Claim 26).

23. As per claim 21, Bayne discloses a system additionally comprising an authorized user data communicator comprising:

- an authorized user electronic data management system (Bayne, ¶ 76), comprising
- a memory for storage of data, (Bayne, Claim 26);
- a microprocessor for performing operations on said data, (Bayne, Claim 26); and
- a transmitter for transmitting a signal relating to the data or the outcome of an operation on the data, (Bayne, Claim 26); and
- a communicator for wirelessly communicating with an endpoint to a network computer system to enable communication of data between the network computer system and the authorized user electronic data management system, (Bayne, Claim 26).

24. As per claim 22, Bayne discloses a system comprising:

- a first authorized user data communicator capable of communicating a prescription authorization command to the network computer system, (Bayne, ¶ 96);
- and

- a second authorized user data communicator capable of receiving a prescription authorization command from the network computer system, (Bayne, ¶ 96).

25. As per claim 23, Bayne discloses a system wherein any communicator employs radiofrequency or optical signals, (Bayne, ¶ 40).

26. As per claim 24, Bayne discloses a system wherein any communicator communicates with the network computer system via a gateway thereto, (Bayne, Claim 26).

27. As per claim 25, Bayne discloses a system wherein any communicator includes an embedded network server, (Bayne, ¶ 45).
28. As per claim 26, Bayne discloses a system wherein the communicator communicates with the network computer system via a second communications device having telecommunications capability, (Bayne, ¶ 79).
29. As per claim 27, Bayne discloses a system wherein the telecommunications device comprises a cellular phone or pager, (Bayne, ¶ 79).
30. As per claim 28, Bayne discloses a system wherein the communicator communicates with the second communications device using spread spectrum radiofrequency signals, (Bayne, ¶ 40).
31. As per claim 29, Bayne discloses a system wherein the network computer system comprises a public access network computer system, (Bayne, ¶ 43).
32. As per claim 30, Bayne discloses a system wherein the network computer system comprises a private access network computer system, (Bayne, ¶ 43).
33. As per claim 31, Bayne discloses a system wherein the patient-specific network address is selected from the group consisting of a web-site address, an e-mail address and a file transfer protocol address, (Bayne, ¶ 76).
34. As per claim 32, Bayne discloses a system wherein the patient electronic data management system additionally comprises a data input system for patient input of data to the electronic data management system, (Bayne, ¶ 70).

35. As per claim 33, Bayne discloses a system wherein said data input system comprises a man machine interface selected from a keypad, graphical user interface (GUI), voice recognition interface or biometrics interface, (Bayne, ¶ 41).

36. As per claim 34, Bayne discloses a system additionally comprising a display for display of data from the patient electronic data management system to the patient, (Bayne, ¶ 71).

37. As per claim 35, Bayne discloses a system for the remote assessment of a patient's respiratory condition additionally comprising a sensor, which senses the breath of a user, wherein the sensor communicates breath data to the patient electronic data collection system, (Bayne, ¶ 28, 46).

38. As per claim 36, Bayne discloses a system wherein said sensor comprises a breath-movable element which is movable in response to the breath of a patient, (Bayne, ¶ 28, 46).

39. As per claim 37, Bayne discloses a system wherein said breath-movable element is selected from the group consisting of a vane, a sail, a piston and an impeller, (Bayne, ¶ 28, 46).

40. As per claim 38, Bayne discloses a system wherein the sensor comprises a pressure sensor for sensing the pressure profile associated with the breath of a user, (Bayne, ¶ 28, 46).

41. As per claim 39, Bayne discloses a system wherein the sensor comprises an airflow sensor for sensing the airflow profile associated with the breath of a user, (Bayne, ¶ 28, 46)

42. As per claim 40, Bayne discloses a system wherein the sensor comprises a temperature sensor for sensing the temperature profile associated with the breath of a user, (Bayne, ¶¶ 28, 46).

43. As per claim 41, Bayne discloses a system wherein the sensor comprises a moisture sensor for sensing the moisture profile associated with the breath of a user, (Bayne, ¶¶ 28, 46).

44. As per claim 42, Bayne discloses a system wherein the sensor comprises a gas sensor for sensing the oxygen or carbon dioxide profile associated with the breath of a user, (Bayne, ¶¶ 28, 46).

45. As per claim 43, Bayne discloses a system wherein said breath data includes breath cycle data, (Bayne, ¶¶ 28, 46).

46. As per claim 44, Bayne discloses a system wherein said breath data includes peak flow data, (Bayne, ¶¶ 28, 46).

47. As per claim 45, Bayne discloses a system for the remote assessment of a patient's cardiovascular condition additionally comprising a sensor which senses the cardiovascular activity of a patient, wherein the sensor communicates cardiovascular data to the electronic data collection system, (Bayne, ¶¶ 28, 46).

48. As per claim 46, Bayne discloses a system wherein said sensor measures the blood pressure of the patient, (Bayne, ¶¶ 28, 46).

49. As per claim 47, Bayne discloses a method comprising locally collecting data relevant to the patient's medical condition in electronic form;

wirelessly communicating with an endpoint to a remote network computer system to enable transfer of said data to said remote network computer system, (Bayne, ¶ 69); and

permitting authorized user access to the data on the remote network computer system via a secure access gateway, (Bayne, ¶ 76).

50. As per claim 48, Bayne discloses a method comprising collecting the data on a regular basis, (Bayne, ¶ 28, 78).

51. As per claim 49, Bayne discloses a method comprising collecting the data on a continuous basis, (Bayne, ¶ 28, 78).

52. As per claim 50, Bayne discloses a method comprising wirelessly communicating the data in encrypted form, (Bayne, ¶ 45).

53. As per claim 51, Bayne discloses a method wherein the data is continuously communicable, (Bayne, ¶ 78).

54. As per claim 52, Bayne discloses a method wherein the data is communicable in packet form, (Bayne, ¶ 28).

55. As per claim 53, Bayne discloses a method comprising permitting different levels of access to the data to different authorized users, (Bayne, ¶ 67, 76).

56. As per claim 54, Bayne discloses a method of remotely assessing a patient's condition and remotely prescribing therefor additionally comprising:

a first authorized user communicating a prescription authorization command to the network computer system, (Bayne, ¶ 39, 96);

a second authorized user receiving said prescription authorization command from the network computer system, (Bayne, ¶ 39, 96); and

said second authorized user preparing the prescription based on the prescription authorization, (Bayne, ¶ 39, 96).

57. As per claim 55, Bayne discloses a method for remotely assessing a patient's condition and remotely prescribing therefor additionally comprising:

a first authorized user communicating a prescription authorization command to a pharmacy network computer system, (Bayne, ¶ 39, 96);

a second authorized user receiving said prescription authorization command from the pharmacy network computer system, (Bayne, ¶ 39, 96); and

said second authorized user preparing the prescription for the patient based on the prescription authorization, (Bayne, ¶ 39, 96),

wherein the pharmacy network computer system is arranged for communication with the network computer system, (Bayne, ¶ 39, 96).

58. As per claim 56, Bayne discloses a method wherein the first authorized user communicates the prescription authorization in response to a 'update prescription' alerting signal visible at the patient-specific network address, (Bayne, ¶ 89, 96).

59. As per claim 57, Bayne discloses a network computer system comprising a patient data controller unit capable of receiving patient data in electronic form, (Bayne, ¶ 89);

associated with said controller unit, a patient database for storing said patient data, (Bayne, ¶ 89);

a secure access gateway to said patient database permitting access thereto in response to an authorized user command, (Bayne, ¶ 76);

search means associated with the controller unit for searching said patient database in response to an authorized user inquiry, (Bayne, ¶ 89);

results transmitting means associated with the controller unit for transmitting the results of said authorized user inquiry to the authorized user, (Bayne, ¶ 89);

wherein the patient data and the authorized user inquiry originate remotely from the network computer system, (Bayne, ¶ 89).

60. As per claim 58, Bayne discloses a method for receiving patient data and enabling authorised user access thereto comprising:

receiving patient data in electronic form at a patient data controller unit, (Bayne, ¶ 89);

storing said patient data in a patient database associated with said controller unit, (Bayne, ¶ 89);

permitting access to said patient database in response to an authorized user command, (Bayne ¶ 76);

searching said patient database in response to an authorized user inquiry, (Bayne, ¶ 89); and

transmitting the results of said authorized user inquiry to the authorized user, (Bayne, ¶ 89),

wherein the patient data and the authorized user inquiry originate remotely from the patient data controller unit, (Bayne, ¶ 89).

61. As per claim 58, Bayne discloses a method wherein said patient data is received and access to said patient database is permitted via a network using TCP/IP, (Bayne, Fig. 1, ¶ 28)(disclosing common client-server architecture operating over the internet that is considered to operate via TCP/IP).
62. As per claim 60, Bayne discloses a computer program product comprising program code, means for, when executed on a computer, instructing the computer to perform all of the steps claim 58, (Bayne, ¶ 59)
63. As per claim 61, the claim contains the same or similar limitations as claims 1-60, and therefore the rejection of those claims is incorporated herein by reference.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows: Mishelevich et al, (U.S. 5,363,842); DeLaHueraga et al., (U.S. 6,408,330); Evans, (5,924,074); Blomquist, (U.S. 5,338,157); Kehr et al., (U.S. 2003/0036683); Chan et al., (U.S. 2001/0039503).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RSG
9/24/2006

RS6


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